

ORIGINAL

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF CALIFORNIA
3

4 UNITED STATES OF AMERICA,) Case no. 07MJ2409-LSP
5 Plaintiff,) San Diego, California
6 vs.) Tuesday,
7 JOSE LUIS LOPEZ-LOPEZ,) November 20, 2007
8 Defendant.) 9:30 a.m.
9

10 TRANSCRIPT OF PRELIMINARY HEARING
11 BEFORE THE HONORABLE LEO S. PAPAS
12 UNITED STATES MAGISTRATE JUDGE

12 APPEARANCES:

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14 Assistant United States
15 Attorney
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16 For the Defendant: MICHAEL LITTMAN, ESQ.
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24 Proceedings recorded by electronic sound recording;
25 transcript produced by transcription service.

1 SAN DIEGO, CALIFORNIA TUESDAY, NOVEMBER 20, 2007 9:30 A.M.

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3 (Call to order of the Court.)

4 THE CLERK: Calling matters three, four, five and
5 six on calendar. Counsel please state your appearances
6 after I state your case.

7 Matter number three, 07MJ2409, United States of
8 America versus Jose Luis Lopez-Lopez.

9 MR. LITTMAN: Michael Littman for Mr. Lopez-Lopez,
10 your Honor.

11 THE COURT: Thank you.

12 (Pause while the Court heard matters.)

13 MR. LITTMAN: For the record, your Honor, Mr. Jose
14 Lopez-Lopez is present, your Honor.

15 THE COURT: Thank you very much.

16 MR. LITTMAN: You're welcome.

17 THE COURT: All right. Well, gentlemen, in each
18 of your cases, I've received at least one document and in
19 connection with Mr. Rodriguez -- excuse me, Mr. Oscar
20 Rodriguez and Mr. Aidan Rodriguez, I've received two
21 documents. I'm going to go over those documents with you
22 today. I'm going to hold the first of the documents, all of
23 which each of you have signed. It's a one-page document.
24 At the top it says "Waiver of Indictment" and that document
25 also appears to have your signature on that document. That

1 document along with the other documents I've received
2 indicates to me, gentlemen, that you have, through your
3 attorney, have been negotiating with the Government in your
4 case and you have either reached an agreement or you're very
5 close to doing so and as part of your negotiations you have
6 each agreed to waive indictment.

7 So, I need to confirm that, confirm that you have
8 had a chance to talk with your attorney before you made your
9 decision, confirm your signature on this and then ultimately
10 I will set the matter for a hearing so you can enter your
11 plea.

12 So, let me start first by talking with you about
13 the Waiver of Indictment and I'll ask each one of you
14 separately about that. Mr. Lopez-Lopez, sir, I'm going to
15 hold this up so you can see this. Is this your signature at
16 the top of the two signatures on this document?

17 DEFENDANT LOPEZ-LOPEZ (Through interpreter): Yes.

18 THE COURT: Did you agree to waive indictment as
19 part of your negotiations with the Government in your case;
20 is that correct, sir?

21 DEFENDANT LOPEZ-LOPEZ: Yes.

22 THE COURT: And did you have a chance to speak
23 with Mr. Littman before you made your decision to sign this
24 document?

25 DEFENDANT LOPEZ-LOPEZ: Yes.

1 THE COURT: In connection with your discussions
2 with him about signing this document, did he advise you of
3 your rights concerning indictment or waiving indictment?

4 DEFENDANT LOPEZ-LOPEZ: Yes.

5 THE COURT: And are you satisfied with the advice
6 you received from him before you signed this document?

7 DEFENDANT LOPEZ-LOPEZ: Yes.

8 THE COURT: All right sir, very good. You can
9 have a seat for a second.

10 (Pause while the Court heard other matters.)

11 THE COURT: I'm going to have my clerk who is
12 going to give each of you some more information. So
13 gentlemen, can I get you all to stand for a second? My
14 clerk is going to give you some more information. I'll ask
15 you another final follow-up question and I'll set the matter
16 for a final hearing.

17 THE CLERK: Jose Luis Lopez-Lopez, is that your
18 true name?

19 DEFENDANT LOPEZ-LOPEZ: Yes.

20 (Pause while the Court heard other matters.)

21 THE CLERK: You are each hereby informed that an
22 information has been filed charging Mr. Lopez-Lopez with
23 illegal entry, a misdemeanor, and two counts of felony,
24 charging Mr. Sanchez-Medina with being a deported alien
25 found in the United States, a felony, and charging both

1 Oscar Rodriguez and Aidan Rodriguez with bringing in illegal
2 aliens without presentation and aiding and abetting.

3 Counsel, have you each received a copy of the
4 information and do you waive further reading?

5 MR. LITTMAN: Yes, as to Mr. Lopez-Lopez.

6 (Pause while the Court heard other matters.)

7 THE CLERK: You are each further informed that you
8 have the right to be represented by counsel at all
9 proceedings before the Court. You have the right to remain
10 silent. You have the right to a trial by jury. You have
11 the right to confront and cross examine any witnesses who
12 testify against you, and you have the right to have
13 witnesses subpoenaed to testify on your behalf.

14 How do you each now plead to the counts in which
15 you are named?

16 THE COURT: Counsel, I'll enter a not-guilty plea
17 for each of the defendants at this point. So gentlemen, in
18 each of your cases I'm going to enter a not-guilty plea for
19 today's hearing because I'm going to set another hearing
20 date at which you can enter your plea. Before I give you
21 that hearing date I want to make sure that you each still
22 wish to go forward with the Waiver of Indictment after what
23 you've heard and what we discuss.

24 So, Mr. Lopez-Lopez, is that correct in your case,
25 sir?

1 DEFENDANT LOPEZ-LOPEZ: Yes.

2 (Pause while the Court heard other matters.)

3 THE COURT: Very good, gentlemen. I'm going to
4 approve the waivers and I'll set your hearings as follows.
5 For Mr. Lopez-Lopez -- yes?

6 MR. LITTMAN: Your clerk informed me earlier, I
7 believe the Court can set for December 4th; there's some
8 additional negotiating I'm doing with the Government counsel
9 and I've spoken to Mr. Orbon (phonetic) this morning.
10 Although the terms of the letter of the plea agreement in
11 the disposition calls for it to be entered by December 10,
12 he's agreed to give me an additional day. If the Court can
13 do it on December 11th which is a Tuesday? But I just want
14 to have enough time for December 4th.

15 THE COURT: Any objection from the Government?

16 MR. CONOVER: No objection, your Honor.

17 THE COURT: All right, sir. Mr. Lopez-Lopez, then
18 instead of the earlier date that I was going to give you, I
19 will set the hearing for your plea, sir, on December 11 at
20 9:30. That will be back here in front of me.

21 MR. LITTMAN: Thank you, your Honor.

22 (Pause while the Court heard other matters.)

23 THE COURT: Thank you, gentlemen. Thanks,
24 counsel.

25 MR. CONOVER: Thank you, your Honor.

1 UNIDENTIFIED SPEAKER: Have a good holiday, your
2 Honor.

3 THE COURT: Thanks, you too.

4 (Proceedings concluded.)
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10 I certify that the foregoing is a correct
11 transcript to the best of my ability from the electronic
12 sound recording of the proceedings in the above-entitled
13 matter.
14

15 Sheri Kattuca 2/15/08
16 Transcriber Date

17 FEDERALLY CERTIFIED TRANSCRIPT AUTHENTICATED BY:

18 L.L. Francisco
19 L.L. Francisco, President
20 Echo Reporting, Inc.
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